

IMPORTANT NOTICE

THE ENCLOSED CHARGE OF DISCRIMINATION ISSUED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT GIVES YOU THE FOLLOWING IMPORTANT RIGHTS AND RESPONSIBILITIES:

I. Election of Civil Action or Administrative Proceeding

If you are either the person charged or any aggrieved person on whose behalf this Charge is brought, you have the right to choose one of two judicial forums in which the issues involved in the Charge will be heard. The two forums are: (1) a United States government administrative proceeding before an independent United States government administrative law judge; and (2) a United States federal district court (district court).

If you want to have your case tried in a United States government administrative proceeding, you need take no action. If you take no action and if no other person decides to go to federal district court, an administrative hearing automatically will be held before an independent United States government administrative law judge.

If you want this matter to proceed to a U.S. federal district court, you must follow the procedure set forth at Section I.C of this Important Notice.¹

If no person elects to have this matter decided in a U.S. federal district court, an administrative hearing shall commence **within 120 days from the date of the Charge of Discrimination**, unless impracticable, in which case the administrative law judge will provide the parties with written notification of the reasons therefore. The hearing shall be conducted at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur. (42 U.S.C. § 3612(b), (g); 24 C.F.R. § 180.600).

If no person elects to have this matter decided in a U.S. federal district court, the administrative law judge shall issue an Order setting forth the discovery schedule, the hearing date, and the location of the hearing.

The proceeding will be conducted in accordance with the Consolidated HUD Hearing Procedures for Civil Rights Matters set forth at 24 C.F.R. Part 180.

A. Advantages of Administrative Proceeding

¹ In addition to HUD's administrative law judges, administrative law judges at the United States Environmental Protection Agency ("EPA") are authorized to hear cases pending before HUD pursuant to an interagency agreement. Prior to the expiration of the 20-day election period in this case, you may receive notice that the case has been assigned to an EPA judge. This does not affect your ability to elect to proceed in federal court or the procedures described in this Notice.

1. Speed

The administrative hearing process was created by Congress to provide for a quick and inexpensive way to resolve housing discrimination charges. 42 U.S.C. § 3612(d) and (g). The time from the issuance of the Charge until the issuance of the administrative law judge's decision is about six months. In contrast, because of the large number of criminal cases in district courts, which, under the Speedy Trial Act, take precedence over all other cases, it is not uncommon for civil litigation such as fair housing cases to take on average at least two years to be litigated in district court.

2. Free HUD Counsel

If this case is tried in a United States government administrative proceeding, an attorney from the United States Department of Housing and Urban Development will prosecute the case on behalf of the aggrieved person at no charge. Providing the opportunity to have a United States Department of Housing and Urban Development lawyer prosecute the case was intended by Congress to give aggrieved persons expert advice from lawyers representing the Department that is in charge of implementing the Fair Housing Act.

3. Remedy

The independent United States government administrative law judge may order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation and/or emotional distress) and may also impose civil penalties payable to the government.

B. Advantages of Judicial Proceeding

1. Jury Trial

If this case proceeds to a district court, any party may choose to have the case decided by a jury.

2. Free Department of Justice Counsel

If the case proceeds to a district court, an attorney from the United States Department of Justice will prosecute the case at no charge.

3. Remedy

The district court may order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation and/or emotional distress) and punitive damages.

C. Procedure for Making an Election

If you want to have your case tried in district court, an election must be filed with the Docket Clerk, at the following address, **no later than the 20th day following your receipt of the enclosed Charge of Discrimination.** (42 U.S.C. § 3612(a); 24 C.F.R. § 180.410(b)(2)). Documents are not filed until received by the Docket Clerk. Filing may be by first class mail, delivery, facsimile transmission or electronic means (email) at:

Regular Mail Address

Docket Clerk
Office of Administrative Law Judges
U.S. Department of Housing and Urban Development
451 7th St., SW, Rm B-133
Washington DC 20410

Overnight Courier

Docket Clerk
Office of Administrative Law Judges
U.S. Department of Housing and Urban Development
409 3rd Street, SW, Suite 201
Washington, DC 20024
Telephone Number: (202) 254-0000

Facsimile

(202) 619-7304
Attn: Docket Clerk

Email

alj.alj@hud.gov

Inter-Agency mail

Office of Administrative Law Judges/OHA
Room B-133

You must also give written notice of your election to go to federal district court to the following individuals:

COMPLAINANT:

Gulf Coast Fair Housing Center
2218 24th Avenue
Gulfport, Mississippi 39501

RESPONDENTS:

Willie Kay Yates
10517 Huckleberry Cove
Gulfport, Mississippi 39503

Penny Pincher, Inc.,
 15029 Dedeaux Road
 Gulfport, Mississippi 39503

RESPONDENT'S REPRESENTATIVE:

Jeff White
 Boyce Holleman and Associates
 1720 23rd Avenue/Boyce Holleman Boulevard
 Gulfport, Mississippi 39501

OFFICIALS:

Samantha A. Holloway
 Trial Attorney, Fair Housing Enforcement
 Office of General Counsel
 U.S. Department of Housing and Urban Development
 451 7th St., SW, Room 10270
 Washington, DC 20410

Estelle D. Franklin
 Assistant General Counsel for Fair Housing Enforcement
 Office of General Counsel
 U.S. Department of Housing and Urban Development
 451 Seventh St., SW, Room 10272
 Washington, DC 20410

Sara L. Pratt
 Deputy Assistant Secretary for Enforcement & Programs
 Office of Fair Housing and Equal Opportunity
 U.S. Department of Housing and Urban Development
 451 Seventh St., SW, Room 5204
 Washington, DC 20410

If a timely election to proceed in federal district court is made, the administrative proceeding will be dismissed.

II. Procedural Rights and Responsibilities for Administrative Proceeding

A. Answer

If you are the respondent in the administrative proceeding, you may file a written answer to the attached Charge by **November 8, 2010** (within 30 days of service of the Charge; 24 C.F.R. § 180.410(b)(4)(ii); 24 C.F.R. § 180.405(d)). Documents are not filed until received by the

Docket Clerk. Filing may be by first class mail, overnight courier, facsimile transmission or electronic means (email) at:

Regular Mail Address

Docket Clerk
Office of Administrative Law Judges
U.S. Department of Housing and Urban Development
451 7th St., SW, Rm B-133
Washington DC 20410

Overnight Courier

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Telephone Number: (202) 254-0000

Facsimile

(202) 619-7304
Attn: Docket Clerk

Email

alj.alj@hud.gov

Any such answer shall include:

1. A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny, each allegation made in the Charge. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed admitted.
2. A statement of each affirmative defense and a statement of the facts supporting each affirmative defense.

NOTE: If you decline to file an answer by the date specified above, it shall be deemed an admission of all matters of fact recited in the Charge of Discrimination and may result in the entry of a default decision. (24 C.F.R. § 180.420(b)).

B. Request for Intervention

If you are the aggrieved person on whose behalf the attached Charge was filed, you may participate as a party in the administrative proceeding by filing a timely request for intervention. In order for requests for intervention to be timely, they must be filed with the Docket Clerk by November 26, 2010 (within 50 days after the filing of the Charge; 24 C.F.R. § 180.310(b)).

C. Discovery

All discovery for the administrative proceeding will be completed 15 days before the date scheduled for the hearing (see Section I, above) or at such time as the administrative law judge shall direct (24 C.F.R. § 180.500(a)). If no person elects to have the claims asserted in this Charge decided in a civil action in district court, a lawyer from the United States Department of Housing and Urban Development will contact you or your representative to discuss scheduling the discovery of information relevant to transactions and events related to the enclosed Charge.

In order to meet your discovery obligations (for either an administrative proceeding or a proceeding in federal court), you should maintain in their current form any and all records, documents, files, or tapes that could pertain to this matter. Discovery of electronic information is treated on equal footing with paper documents. Electronically stored information is defined expansively to include any type of information that is stored on a computer or other electronic medium, including, but not limited to: email messages and attachments; other electronic communications; word processing documents; spreadsheets; tables; data; photographs; sound recordings, and telephone logs. These materials may not be destroyed or altered pending the outcome of this litigation. The destruction or alteration of any evidence concerning this matter could result in sanctions.

To meet your discovery obligations, you should take all reasonable steps to:

- Prevent deleting or discarding any information, including electronic information, related to the matters described in the enclosed Charge of Discrimination.
- Assess how information, including electronic information, is stored, how it can be produced, and what evidence is relevant to the case.

III. Restrictions on Respondent's Sale or Rental of Property

If at any time following the service of the attached Charge, the respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of the Charge, the respondent must provide a copy of the Charge to such person before the respondent and that person enter into the contract, sale, encumbrance or lease. 24 C.F.R. § 180.410(b)(5).

If there is anything in this notice that you do not understand or if you have additional questions, contact: Timothy C. Lambert, Deputy Assistant general Counsel for Fair Housing Enforcement, at 202-402-5383.

Enclosures: Charge of Discrimination
Determination of Reasonable Cause

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

| | | |
|--|---|-----------------------|
| The Secretary, United States |) | |
| Department of Housing and Urban |) | |
| Development, on behalf of the Gulf Coast |) | |
| Fair Housing Center, |) | |
| |) | |
| Charging Party, |) | |
| |) | |
| v. |) | HUD ALJ No. |
| |) | FHEO No. 04-09-0814-8 |
| Penny Pincher, Inc., and Willie Kay Yates, |) | |
| |) | |
| Respondents. |) | |
| _____ |) | |

CHARGE OF DISCRIMINATION

I. JURISDICTION

On January 22, 2009, Complainant Gulf Coast Fair Housing Center ("GCFHC") filed a verified complaint with the United States Department of Housing and Urban Development ("HUD" or "Charging Party") alleging that Respondent Penny Pincher, Inc. ("Penny Pincher") published discriminatory advertisements in violation of subsection 804(c) of the Fair Housing Act ("Act"), 42 U.S.C. § 3604(c). The complaint was amended on May 15, 2009 to add Respondent Willie Kay Yates ("Yates").

The Act authorizes the issuance of a Charge of Discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. 42 U.S.C. § 3610(g)(1)-(2). The Secretary of HUD has delegated to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to make such a determination and to the General Counsel the authority to issue a Charge of Discrimination. 74 Fed. Reg. 62801, 62802 (Dec. 1, 2009). The General Counsel has redelegated that authority to the Associate General Counsel for Fair Housing. 74 Fed. Reg. 62803, 62804 (Dec. 1, 2009).

The Director of the Office of Fair Housing and Equal Opportunity for Region IV, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice occurred in this case and has authorized the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. THE LEGAL AND FACTUAL BASIS FOR THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause, Respondents are charged with violating 42 U.S.C. § 3604(c) as follows:

A. LEGAL AUTHORITY

1. It is unlawful to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a)-(c)(1).
2. "Familial status" is defined to include one or more individuals under the age of eighteen years being domiciled with a parent or person having legal custody of such individual(s). 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.

B. PARTIES AND SUBJECT PROPERTY

3. Complainant Gulf Coast Fair Housing Center, located at 2218 24th Avenue, Gulfport, Mississippi, is a non-profit organization that strives to promote fair housing along the Mississippi Gulf Coast. Complainant is dedicated to eliminating housing discrimination by furthering equal housing opportunities through education, outreach, advocacy, and enforcement of fair housing laws. Complainant is an "aggrieved person" within the meaning of the Act. 42 U.S.C. § 3602(i).
4. Respondent Penny Pincher Inc., located at 15029 Dedrux Road, Gulfport, Mississippi, publishes the Penny Pincher newspaper, a free weekly publication. Over 40,000 copies are distributed in several counties along the Mississippi Gulf Coast.
5. At all times relevant to this Charge, Respondent Yates owned a house located at 10517 Huckleberry Cove, Gulfport, Mississippi that contained a separate apartment ("Subject Property").

C. FACTUAL ALLEGATIONS

6. On or about February 14, 2008, the following advertisement was published in the Penny Pincher newspaper: "QUIET AREA OFF Lorraine Cowan Road, great large 1 bedroom apartment, nicely furnished \$795 monthly, utilities paid, \$400 deposit, references required, no children or pets. 228-363-1601 or 228-831-0365" ("Advertisement # 1").

7. The telephone number listed in Advertisement # 1, 228-363-1601, is assigned to a cell phone owned by Respondent Yates.
8. Respondent Yates submitted Advertisement # 1 for publication in Respondent the Penny Pincher newspaper.
9. On or about March 27, 2008, the following advertisement was published in the Penny Pincher newspaper: "Camper for rent, single or couple, all utilities except propane gas, \$170 weekly. 228-328-4411" ("Advertisement # 2").
10. On or about May 1, 2008, the following advertisement was published in the Penny Pincher newspaper: "FOR RENT, TRAILER, 16 x 80, Highway 49, Saucier. Prefer retired couple or single. 2 bedroom, 2 bath, fully furnished with carport on private lot. \$600 plus deposit. 228-831-1056 or 228-861-7077" ("Advertisement #3").
11. On or about November 6, 2008, the following advertisement was published in the Penny Pincher newspaper: "2 BEDROOM TRAILER, couple only, close to I-10 and 49, \$600. 877-324-0778" ("Advertisement # 4").
12. On or about November 6, 2008, the following advertisement was published in the Penny Pincher newspaper: "2 bedroom house couples only, close to I-10 and 49, \$650 monthly, 877-324-0778" ("Advertisement # 5").
13. On or about November 6, 2008, the following advertisement was published in the Penny Pincher newspaper: "Wiggins Apartment for rent, great for one person, senior citizen, college student, bedroom, bathroom, kitchenette, living area, patio furniture, \$100 deposit, \$285 monthly rent, first paid in advance-some utilities free. After 5 pm 601-528-4219" ("Advertisement # 6").
14. On or about November 27, 2008, the following advertisement was published in the Penny Pincher newspaper: "1 bedroom house close to I-10, Gulfport. Working couple only. 601-427-2710" ("Advertisement # 7").
15. On or about December 11, 2008, the following advertisement was published in the Penny Pincher newspaper: "2 bedroom trailer, working couple only, Gulfport. 601.427.2710" ("Advertisement # 8").
16. By submitting Advertisement # 1 to be published, Respondent Yates made, published, or caused to be published a discriminatory advertisement based on familial status in violation of 42 U.S.C. § 3604(c).
17. By publishing Advertisements #1-8, Respondent Penny Pincher published discriminatory advertisements based on familial status in violation of 42 U.S.C. § 3604(c).

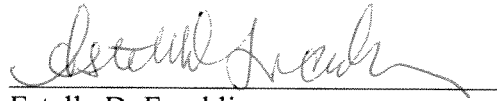
18. Respondents Yates and Penny Pincher's actions injured Complainant by frustrating Complainant's mission to ensure equal availability of housing and housing services. Due to Respondents Yates and Penny Pincher's discriminatory actions, Complainant has had to divert resources and attention away from other services, including but not limited to education, outreach, and referrals.

III. CONCLUSION

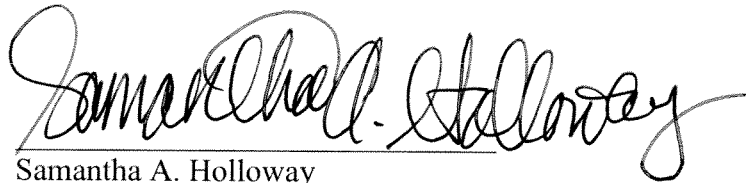
WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents Penny Pincher, Inc. and Willie Kay Yates with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(c), and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act;
2. Enjoins Respondents, their agents, employees and successors, and all other persons in active concert or participation with them from discriminating against any person because of familial status in any aspect of the rental, sale, occupancy, use, enjoyment, or advertisement of a dwelling;
3. Awards such monetary damages as will fully compensate Complainant Gulf Coast Fair Housing Center for its economic loss due to its diversion of resources and frustration of its mission caused by Respondents' discriminatory conduct in violation of the Act;
4. Assesses a civil penalty against each Respondent for each violation of the Act pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a)(1); and
5. Awards any additional relief as may be appropriate under 42 U.S.C. § 3612 (g)(3).

Respectfully submitted,



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Washington, DC 20410
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Dated: October 6, 2010

MIXED DETERMINATION OF REASONABLE CAUSE
AND NO REASONABLE CAUSE

CASE NAME: Gulf Coast Fair Housing Center v. Penny Pincher, Inc. and Willie Kay Yates

CASE NUMBER: 04-09-0814-8

I. JURISDICTION

Gulf Coast Fair Housing Center ("GCFHC") filed a verified complaint with HUD, on or about January 22, 2009, alleging that Respondents Penny Pincher, Inc. ("Penny Pincher") and Edward Little engaged in discriminatory acts in violation of the Fair Housing Act ("Act"), 42 U.S.C. § 3601 *et seq.* GCFHC alleged that Respondents Penny Pincher and Edward Little made or published discriminatory advertisements based on familial status and disability. The most recent act is alleged to have occurred on December 11, 2008. The complaint was amended on May 15, 2009 to add Respondent Willie Kay Yates ("Yates") and an additional advertisement that was allegedly published in the Penny Pincher newspaper on May 10, 2008. The complaint was further amended on December 2, 2009 to remove an advertisement that was allegedly published in the Penny Pincher newspaper on January 22, 2008 and to add Kimberly Riley ("Riley"), Sierra Sykes ("Sykes"), Emily Herrington ("Herrington"), and Heather Little as respondents. If proven, the allegations would constitute violations of Section 804(c) of the Act.

Respondents do not receive federal financial assistance.

II. COMPLAINANT ALLEGATIONS

GCFHC is a non-profit organization that works to promote fair housing along the Mississippi Gulf Coast. On or about February 14, 2008, GCFHC became aware of an advertisement for rental housing published in the Penny Pincher newspaper, a Gulfport, Mississippi publication, by Respondent Yates that specified "no children or pets." During the next three months, GCFHC observed other advertisements in the Penny Pincher newspaper that stated a preference for adult tenants. GCFHC alleges that the advertisements violated the Act.

As a result of Respondents' discriminatory policies and practices, GCFHC alleges that it has been damaged by having to divert scarce resources away from its other activities and services to identify and counteract Respondents' discriminatory policies and practices. Additionally, GCFHC alleges that Respondents have frustrated its mission by requiring it to devote resources to programs and activities

to counteract Respondents' discriminatory practices and policies, rather than conduct other mission activities.

III. RESPONDENT DEFENSES

Respondent Penny Pincher does not deny that the advertisements referenced in GCFHC's complaint and amended complaints were published in the Penny Pincher newspaper, but denies that the advertisements violate the Act. Respondents Riley, Herrington, Heather Little and Edward Little deny soliciting or publishing discriminatory advertisements on the basis of familial status and/or disability.

Respondent Sykes was not served with a copy of the Complaint or the amended complaints and therefore did not provide an answer to HUD.

Respondent Yates admits to submitting an advertisement to the Penny Pincher newspaper that was published on February 14, 2008. Respondent Yates alleges that she was unaware that it was unlawful to publish an advertisement that stated "no children or pets."

IV. FINDINGS AND CONCLUSIONS

A. Parties

1. GCFHC is a private non-profit organization established in 2003. Complainant is dedicated to eliminating housing discrimination and furthering equal housing opportunities through education, outreach, advocacy, and enforcement of fair housing laws.
2. Respondent Penny Pincher, Inc., is a newspaper corporation wholly owned by Wanda Gautreaux. Donna Gautreaux Chiasson is its Registered Agent. The Penny Pincher newspaper is a weekly free publication that distributes 40,000 copies in several counties along the Mississippi Gulf Coast.
3. Respondent Edward Little is an independent contractor who solicits advertisements for Respondent Penny Pincher to be published in the Penny Pincher newspaper.
4. Respondent Sykes is a former employee of Respondent Penny Pincher.
5. Respondent Herrington is a graphic artist and designer employed by Respondent Penny Pincher.
6. Respondent Heather Little is an advertising representative employed by Respondent Penny Pincher.

7. Respondent Riley is an advertising representative employed by Respondent Penny Pincher.

8. Respondent Yates is the owner of a house with a separate apartment located at 10517 Huckleberry Cove, Gulfport, Mississippi ("subject property"). Respondent Yates is alleged to have published a discriminatory advertisement in the Penny Pincher newspaper.

B. Statement of Facts

9. The investigation showed that between January 1, 2008 and January 15, 2009, GFHC's staff monitored Respondent Penny Pincher's newspaper for discriminatory advertisements and notices.

10. On or about February 14, 2008, the following advertisement was published in the Penny Pincher newspaper: "QUIET AREA OFF Lorraine Cowan Road, great large 1 bedroom apartment, nicely furnished \$795 monthly, utilities paid, \$400 deposit, references required, **no children or pets**. 228-363-1601 or 228-831-0365" (emphasis added) ("Advertisement # 1").

11. The investigation showed that the telephone number listed in Advertisement # 1, 228-363-1601, is registered to a cell phone owned by Respondent Yates. The other telephone number listed in Advertisement #1, 228-831-0365, is an unpublished landline.

12. On or about March 27, 2008, the following advertisement was published in the Penny Pincher newspaper: "Camper for rent, **single or couple**, all utilities except propane gas, \$170 weekly. 228-328-4411" (emphasis added) ("Advertisement # 2").

13. On or about May 1, 2008, the following advertisement was published in the Penny Pincher newspaper: "FOR RENT, TRAILER, 16 x 80, Highway 49, Saucier. **Prefer retired couple or single**. 2 bedroom, 2 bath, fully furnished with carport on private lot. \$600 plus deposit. 228-831-1056 or 228-861-7077" (emphasis added) ("Advertisement #3").

14. On or about November 6, 2008, the following advertisement was published in the Penny Pincher newspaper: "2 BEDROOM TRAILER, **couple only**, close to I-10 and 49, \$600. 877-324-0778" (emphasis added) ("Advertisement # 4").

15. On or about November 6, 2008, the following advertisement was published in the Penny Pincher newspaper: "2 bedroom house **couples only**, close to I-10 and 49, \$650 monthly, 877-324-0778" (emphasis added) ("Advertisement # 5").

16. On or about November 6, 2008, the following advertisement was published in the Penny Pincher newspaper: “Wiggins Apartment for rent, **great for one person, senior citizen, college student**, bedroom, bathroom, kitchenette, living area, patio furniture, \$100 deposit, \$285 monthly rent, first paid in advance- some utilities free. After 5 pm 601-528-4219” (emphasis added) (“Advertisement # 6”).

17. On or about November 27, 2008, the following advertisement was published in the Penny Pincher newspaper: “1 bedroom house close to I-10, Gulfport. **Working couple only**. 601-427-2710” (emphasis added) (“Advertisement # 7”).

18. On or about December 11, 2008, the following advertisement was published in the Penny Pincher newspaper: “2 bedroom trailer, **working couple only**, Gulfport. 601-427-2710” (emphasis added) (“Advertisement # 8”).

19. On or about December 11, 2008, the following advertisement was published in the Penny Pincher newspaper: “1 bedroom trailer, close to I-10 and 49, **workers only** apply. 601-427-2710” (emphasis added) (“Advertisement # 9”).

20. The investigation showed that Respondent Edward Little did not solicit or accept Advertisements # 1-9 for publication.

21. The investigation did not establish that Respondents Sykes, Riley, Herrington, or Heather Little accepted, reviewed, or processed Advertisements # 1-9 for publication.

22. The investigation did not establish who owned the properties listed in Advertisements # 2-9.

C. Subsection 804(c) – The Making, Printing, or Publishing of a Discriminatory Notice, Statement, or Advertisement Based on Disability.

NO REASONABLE CAUSE as to All Respondents for Advertisement # 1.

Subsection 804(c) makes it unlawful to make, print, publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to the rental of a dwelling that indicates any preferences, limitation, or discrimination based on disability.

The investigation established that Respondent Yates caused Advertisement # 1 to be published in Respondent Penny Pincher’s newspaper. Advertisement # 1 contained the phrase “no . . . pets.” The Act does not preclude landlords from instituting a “no pets” policy but rather makes it unlawful to refuse to make reasonable accommodations to a “no pets” policy when an accommodation would be necessary to afford a tenant with a disability equal opportunity to use and enjoy

a dwelling. See 42 U.S.C. § 3064(f)(3)(B); 24 C.F.R. § 100.204(b); Joint Statement of the Dept. of Housing and Urban Development and the Dept. of Justice: Reasonable Accommodations Under The Fair Housing Act (May 17, 2004). Accordingly, merely having a “no pets” policy does not violate the Act. Moreover, the investigation did not demonstrate that Respondent Yates refused to grant a reasonable accommodation to her “no pets” policy for a tenant with a disability.

Accordingly, there is no reasonable cause to believe that Respondent Yates, Respondent Penny Pincher, Respondent Edward Little, Respondent Sykes, Respondent Riley, Respondent Herrington, or Respondent Heather Little violated of subsection 804(c) of the Act based on disability as alleged.

D. Subsection 804(c) – The Making, Printing, or Publishing of a Discriminatory Notice, Statement, or Advertisement Based on Familial Status.

REASONABLE CAUSE as to Respondent Penny Pincher and Respondent Yates. NO REASONABLE CAUSE as to Respondent Sykes, Respondent Riley, Respondent Herrington, Respondent Edward Little, and Respondent Heather Little.

Subsection 804(c) of the Act makes it unlawful to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preferences, limitation, or discrimination based familial status, or an intention to make any such preference, limitation or discrimination. “Advertisements may not state an explicit preference, limitation or discrimination based on familial status. Advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples or singles.” Memorandum from Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity to FHEO, Office Directors, Enforcement Directors, Staff, Office of Investigations, Field Assistant General Counsel (January 9, 1995).

To determine whether an advertisement indicates a discriminatory preference, an “ordinary reader” standard is used. *See Jancik v. HUD*, 44 F.3d 553, 556 (7th Cir. 1995); *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir. 1991). Under this standard, a respondent is liable under the Act if the advertisement would suggest to an ordinary reader that families with children are not welcome or are discouraged from applying. *See White v. HUD*, 475 F.3d 898, 905-06 (2007); *Jancik*, 44 F.3d at 556. Courts have noted that the ordinary reader is “neither the most suspicious nor the most insensitive of our citizenry.” *Ragin*, 923 F.2d at 1002.

Advertisement # 1 explicitly states “no children,” and thus violates the Act. Advertisements # 2-8, contained one of the following phrases or terms: “single,”

“couple,” “couples only,” “single person,” “one person,” or “working couples.” Phrases that contain the terms “couple,” “single,” or “one person” express a preference for adults from which an ordinary reader may infer that children are not allowed. Furthermore, the term “single” or the phrase “one person” normally connote one adult living alone from which an ordinary reader would infer that additional individuals, such as children, are disfavored. See Memorandum from Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity to FHEO, Office Directors, Enforcement Directors, Staff, Office of Investigations, Field Assistant General Counsel (January 9, 1995).

Respondent Penny Pincher does not deny that Advertisements # 1-8 were published in its newspaper. There is reasonable cause to believe that Respondent Penny Pincher violated subsection 804(c) of the Act based on familial status with regard to Advertisements # 1-8. Respondent Yates admits to placing Advertisement # 1 in Respondent Penny Pincher’s newspaper. Reasonable cause exists to believe that Respondents Yates violated subsection 804(c) of the Act based on familial status in regard to Advertisement # 1.

The investigation did not show, however, that Respondent Edward Little solicited Advertisements # 1-8, or that Respondents Sykes, Riley, Herrington, or Heather Little accepted, reviewed, or processed Advertisements # 1-8. There is no reasonable cause to believe that Respondents Edward Little, Sykes, Riley, Herrington, or Heather Little violated subsection 804(c) of the Act based on familial status.

NO REASONABLE CAUSE as to all Respondents for Advertisement # 9.

Advertisement # 9 contains the phrase “workers only.” The term “workers” can be used to describe both children and adults. Under the Fair Labor Standards Act (“FLSA”), and equivalent state laws, minor children are permitted to work. *See* 29 U.S.C. § 201, *et seq.* In addition, an ordinary reader would construe a preference for “workers” to refer to a desire that those responsible for the lease be employed. Therefore, the phrase “workers only” does not indicate a preference for adults, and an ordinary reader would not infer that children are not welcome. Accordingly, there is no reasonable cause to believe that any respondents violated the Act with regard to Advertisement # 9.

V. ADDITIONAL INFORMATION


Notwithstanding this determination by HUD, the Fair Housing Act provides that the complainant may file a civil action in an appropriate federal district court or state court within two years after the occurrence or termination of the alleged discriminatory housing practice. The computation of this two-year period does not include the time during which this administrative proceeding was pending. In

addition, upon the application of either party to such civil action, the court may appoint an attorney, or may authorize the commencement of or continuation of the civil action without the payment of fees, costs, or security, if the court determines that such party is financially unable to bear the costs of the lawsuit.

The Department's regulations implementing the Act require that a dismissal, if any, be publicly disclosed, unless the respondent requests that no such release be made. Such request must be made by the respondent within thirty (30) days of receipt of the determination to the Field Office of Fair Housing and Equal Opportunity at the address contained in the enclosed summary. Notwithstanding such request by the respondent, the fact of a dismissal, including the names of all parties, is public information and is available upon request.

A copy of the final investigative report can be obtained from:

US Department of Housing and Urban Development
Loretta Chandler, Equal Opportunity Assistant
Office of Fair Housing and Equal Opportunity,
Region IV
Five Points Plaza,
40 Marietta Street
Atlanta, Georgia 30303-2806.


Carlos Osegueda
Regional Director
Office of Fair Housing and Equal Opportunity

10-6-10
Date

CERTIFICATE OF SERVICE

I HEREBY certify that on this 6th day of October, 2010, the foregoing *Important Notice, Charge of Discrimination*, and *Determination of Reasonable Cause*, in FHEO Case Number 04-09-0814-8, were served on the following parties in the manner indicated:

Email

alj.alj@hud.gov

Inter-Agency mail

Office of Administrative Law Judges/OHA
Room B-133

Sara L. Pratt
Deputy Assistant Secretary for Enforcement and Programs
Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development
451 Seventh Street, SW, Room 5204
Washington, DC 20410

Estelle D. Franklin
Associate General Counsel for Fair Housing
Office of General Counsel
Department of Housing and Urban Development
451 Seventh Street, SW, Room 10272
Washington, DC 20410

United Parcel Service – Overnight Delivery, Signature Required

Gulf Coast Fair Housing Center
2218 24th Avenue
Gulfport, Mississippi 39501

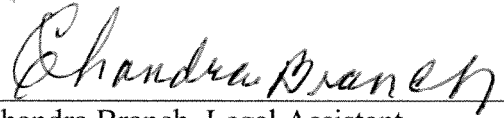
Willie Kay Yates
10517 Huckleberry Cove
Gulfport, Mississippi 39503

Penny Pincher, Inc.,
15029 Dedeaux Road
Gulfport, Mississippi 39503

Respondent's Representative:

Jeff White

Boyce Holleman and Associates
1720 23rd Avenue/Boyce Holleman Boulevard
Gulfport, Mississippi 39501

A handwritten signature in cursive script that reads "Chandra Branch". The signature is written in dark ink and is positioned above a horizontal line.

Chandra Branch, Legal Assistant
United States Department of
Housing and Urban Development
Office of General Counsel
Office of Fair Housing
451 Seventh Street, SW Room 10270
Washington, DC 20410
Telephone: 202-402-5488
Fax: 202-619-8004